

## Federal Railroad Administration, DOT

## § 244.1

under some circumstances, may restrict an examinee who does not meet the criteria for serving as a conductor at night, during adverse weather conditions or under other circumstances. The intent of §242.117(j) is not to provide an examinee with the right to make an infinite number of requests for further evaluation, but to provide an examinee with at least one opportunity to prove that a hearing or vision test failure does not mean the examinee cannot safely perform as a conductor. Appropriate further medical evaluation could include providing another approved scientific screening test or a field test. All railroads should retain the discre-

tion to limit the number of retests that an examinee can request but any cap placed on the number of retests should not limit retesting when changed circumstances would make such retesting appropriate. Changed circumstances would most likely occur if the examinee's medical condition has improved in some way or if technology has advanced to the extent that it arguably could compensate for a hearing or vision deficiency.

(5) Conductors who wear contact lenses should have good tolerance to the lenses and should be instructed to have a pair of corrective glasses available when on duty.

## APPENDIX E TO PART 242—APPLICATION OF REVOCABLE EVENTS

Revocable Event	Application of Revocable Events						
	Periods of Revocation					Employees with Multiple Certifications	
	Main Track					Main Track or Other than Main Track	
	1st Offense	2nd Offense Within 24 Months	3rd Offense Within 36 Months	4th Offense Within 36 Months	Other than Main Track Where Restricted Speed or the Operational Equivalent Is in Effect	No Offense Within Previous 12 Months	Offense (as a Conductor)
1 Signal requiring complete stop before passing	30 Days	6 Months	1 Year	3 Years	Not Applicable	Employee May <u>Not</u> Work as an Engineer During the Period of Revocation	Employee May <u>Not</u> Work as a Conductor During the Period of Revocation
2 Restricted Speed & Speed; 10 mph over							
3 Required Air Brake Test							
4 Occupying Main Track without Authority					Half Revocation Period	Employee May Work as an Engineer During the Period of Revocation	Not applicable
5 Disabling a Safety Device							
6 Shoving Movements							
7 Equipment Fouling Adjacent Tracks					Not Applicable	Employee May <u>Not</u> Work as an Engineer During the Period of Revocation	Not applicable
8 Hand Operated Switches (Crossovers)							
9 Hand Operated Switches Connected to Main Track					Half Revocation Period	Employee May <u>Not</u> Work as an Engineer During the Period of Revocation	Employee May <u>Not</u> Work as a Conductor During the Period of Revocation
10 Hand Operated Crossover Switches (before & after movement)							
11 Hand Operated Derails							
12 Drug & Alcohol	Different periods of revocation may be applied (see 242.403 & 242.115)				Not Applicable	Employee May <u>Not</u> Work as an Engineer During the Period of Revocation	Employee May <u>Not</u> Work as a Conductor During the Period of Revocation

## PART 244—REGULATIONS ON SAFETY INTEGRATION PLANS GOVERNING RAILROAD CONSOLIDATIONS, MERGERS, AND ACQUISITIONS OF CONTROL

### Subpart A—General

Sec.

244.1 Scope, application, and purpose.

244.3 Preemptive effect.

244.5 Penalties.

244.7 Waivers.

244.9 Definitions.

### Subpart B—Safety Integration Plans

244.11 Contents of a Safety Integration Plan.

244.13 Subjects to be addressed in a Safety Integration Plan involving an amalgamation of operations.

244.15 Subjects to be addressed in a Safety Integration Plan not involving an amalgamation of operations.

244.17 Procedures.

244.19 Disposition.

244.21 Compliance and Enforcement.

### APPENDIX A TO PART 244—SCHEDULE OF CIVIL PENALTIES [RESERVED]

AUTHORITY: 49 U.S.C. 20103, 20107, 21301; 5 U.S.C. 553 and 559; 28 U.S.C. 2461, note; and 49 CFR 1.49.

SOURCE: 67 FR 11604, Mar. 15, 2002, unless otherwise noted.

### Subpart A—General

#### § 244.1 Scope, application, and purpose.

(a) This part prescribes requirements for filing and implementing a Safety Integration Plan with FRA whenever a

### § 244.3

Class I railroad proposes to consolidate with, merge with, or acquire control of another Class I railroad, or with a Class II railroad where there is a proposed amalgamation of operations.

(b) The purpose of this part is to achieve a reasonable level of railroad safety during the implementation of transactions described in paragraph (a) of this section. This part does not preclude a railroad from taking additional measures not inconsistent with this part to provide for safety in connection with a transaction.

(c) The requirements prescribed under this part apply only to FRA's disposition of a regulated transaction filed by an applicant. The transactions covered by this part also require separate filing with and approval by the Surface Transportation Board. *See* 49 CFR part 1106.

### § 244.3 Preemptive effect.

Under 49 U.S.C. 20106, issuance of these regulations preempts any State law, regulation, or order covering the same subject matter, except an additional or more stringent law, regulation, or order that:

(a) Is necessary to eliminate or reduce an essentially local safety hazard;

(b) Is not incompatible with a law, regulation, or order of the United States Government; and

(c) Does not unreasonably burden interstate commerce.

### § 244.5 Penalties.

(a) Any person who violates any requirement of this part or causes the violation of any such requirement is subject to a civil penalty of at least \$650, but not more than \$25,000 per day, except that: Penalties may be assessed against individuals only for willful violations, and, where a grossly negligent violation or a pattern of repeated violations has created an imminent hazard of death or injury to persons, or has caused death or injury, a penalty not to exceed \$105,000 per violation may be assessed. Each day a violation continues shall constitute a separate offense.

(b) As specified in § 244.21, FRA may also exercise any of its other enforcement remedies if a railroad fails to comply with § 244.21.

### 49 CFR Ch. II (10–1–13 Edition)

(c) Any person who knowingly and willfully makes a false entry in a record or report required by this part shall be subject to criminal penalties under 49 U.S.C. 21311.

[67 FR 11604, Mar. 15, 2002, as amended at 69 FR 30595, May 28, 2004; 72 FR 51198, Sept. 6, 2007; 73 FR 79705, Dec. 30, 2008; 77 FR 24423, Apr. 24, 2012]

### § 244.7 Waivers.

(a) A person subject to a requirement of this part may petition the Administrator for a waiver of compliance with any requirement of this part. The filing of such a petition does not affect that person's responsibility for compliance with that requirement pending action on such a petition.

(b) Each petition for a waiver under this section must be filed in the manner and contain the information required by part 211 of this chapter.

(c) If the Administrator finds that a waiver of compliance is in the public interest and is consistent with railroad safety, the Administrator may grant the waiver subject to any conditions the Administrator deems necessary.

(d) The procedures governing a petition for a waiver that are prescribed under this part apply only to FRA's disposition of such a petition. A person seeking a waiver of a Surface Transportation Board regulation would need to file a petition for a waiver with the Board. (*See* 49 CFR 1106.5.)

### § 244.9 Definitions.

As used in this part—

*Administrator* means the Administrator of the Federal Railroad Administration or the Administrator's delegate.

*Amalgamation of operations* means the migration, combination, or unification of one set of railroad operations with another set of railroad operations, including, but not limited to, the allocation of resources affecting railroad operations (*e.g.*, changes in personnel, track, bridges, or communication or signal systems; or use or deployment of maintenance-of-way equipment, locomotives, or freight or passenger cars).

*Applicant* means a Class I railroad or a Class II railroad engaging in a transaction subject to this part.